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RHMFISS/DEPT OF ENERGY WASHINGTON DC IMMEDIATE  
RHMFISS/DTRA ALEX WASHINGTON DC IMMEDIATE  
RUESDT/DTRA-OSSES DARMSTADT GE IMMEDIATE  
RUENAAA/CNO WASHINGTON DC IMMEDIATE  
RHMFISS/DIRSSP WASHINGTON DC IMMEDIATE  
INFO RUEHTA/AMEMBASSY ASTANA PRIORITY 2587  
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SIPDIS

DEPT FOR T, VC AND EUR/PRA  
DOE FOR NNSA/NA-24  
CIA FOR WINPAC  
JCS FOR J5/DDGSA  
SECDEF FOR OSD(P)/STRATCAP  
NAVY FOR CNO-N5JA AND DIRSSP  
AIRFORCE FOR HQ USAF/ASX AND ASXP  
DTRA FOR OP-OS OP-OSA AND DIRECTOR  
NSC FOR LOOK  
DIA FOR LEA

E.O. 12958: DECL: 11/17/2019  
TAGS: [KACT](#) [MARR](#) [PARM](#) [PREL](#) [RS](#) [US](#) [START](#)  
SUBJECT: START FOLLOW-ON NEGOTIATIONS, GENEVA  
(SFO-GVA-VII): (U) LAWYERS' MEETING ON U.S.-PROPOSED  
AGREEMENT ON INTERIM MEASURES, NOVEMBER 13, 2009

REF: A. STATE 115348  
[1](#)B. GENEVA 1028 (SFO-GVA-VII-020)

Classified By: A/S Rose E. Gottemoeller, United States  
START Negotiator. Reasons: 1.4(b) and (d).

[1](#)1. (U) This is SFO-GVA-VII-019.

[1](#)2. (U) Meeting Date: November 13, 2009  
Time: 4:30 - 5:00 P.M.  
Place: Russian Mission, Geneva  
Participants:  
  
U.S. RUSSIA  
  
Mr. Brown Mr. Lobach

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SUMMARY  
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[1](#)3. (S) Following the Conforming Group meeting earlier in the afternoon, Mr. Brown met briefly with Russian lawyer Mr. Lobach to receive additional information on Lobach's views concerning the U.S.-proposed agreement on interim measures (REF A). Lobach repeated the points he had made the previous day (REF B) on the need, under Russian law, to style any such agreement as an "inter-State" agreement that required ratification prior to entry into force. He also claimed that there was no Russian legislative practice that would provide privileges and immunities via separate legislation (rather than by means of a treaty approved by the Duma). He also

claimed that the nuclear-related agreements contained in the list provided to him earlier by U.S. lawyers were not models for how to proceed on granting simplified privileges and immunities for the type of agreement that the United States was now proposing. Finally, he admitted that he did not know when there would be an official Russian response to the substance of the U.S.-proposed agreement.

¶4. (u) Subject Summary: Further Thoughts on U.S.-Proposed Agreement; Precedents from Previous Nuclear-Related U.S.-Russian Agreements Not Applicable; When to Expect Official Russian Response; and, List of U.S.-Russian Nuclear-Related Agreements.

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FURTHER THOUGHTS ON  
U.S.-PROPOSED AGREEMENT  
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¶5. (S) Lobach remarked to Brown at the conclusion of the Conforming Group meeting that he had some additional points to make concerning the U.S.-proposed agreement on interim measures. He emphasized that he was talking just as a legal advisor and was not going to say anything about the substance, noting that it was a political matter.

¶6. (S) Lobach asserted that the subject matter of the proposed agreement made it an "inter-State" rather than "inter-Governmental" agreement, referring again to the Federal Law on International Agreements and mentioning another (unspecified) federal law that addressed the

competence of the Government within the Russian constitutional structure. He again stated that the subject matter of the proposed agreement made that agreement subject to approval by the Duma (REF B). He explained that there was no Russian legislative practice (comparing it to the Lugar bill, which he had heard about in a discussion with Senator Kyl the previous evening at the U.S.-hosted reception--SEPTTEL) where the legislature would be able to provide privileges and immunities through the enactment of separate legislation; instead, privileges and immunities would be approved as part of a treaty that the Government would submit to the Duma.

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PRECEDENTS FROM PREVIOUS  
NUCLEAR-RELATED U.S.-RUSSIAN  
AGREEMENTS NOT APPLICABLE  
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¶7. (S) With respect to the list provided earlier (see paragraph 9) containing the titles of U.S.-Russian agreements involving inspection or monitoring without full privileges and immunities that were not subject to ratification, Lobach claimed that there have been considerable changes since the time that many of these agreements had been signed, in terms of the authority of the Russian legislative branch, and he noted that some of the privileges and immunities granted U.S. inspectors at that time under those agreements were greater than those afforded to other foreigners, which had become a political issue in Russia later when that fact became known. He also asserted that at least one of the agreements on that list was an implementing instrument for an "umbrella" inter-State agreement, thus the Duma could be considered to have approved it in advance, but he admitted that he was not well versed in these agreements and that this was only his preliminary view.

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WHEN TO EXPECT OFFICIAL  
RUSSIAN RESPONSE  
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¶8. (S) Brown asked when the U.S. side could expect an official Russian response to the U.S. proposal. Lobach responded that he did not know and that in any case it would

be a political decision in terms of how to respond to the substance of that proposal, while repeating that he had been talking only about some of the legal difficulties under Russian law posed by the U.S.-proposed instrument.

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LIST OF U.S.-RUSSIAN  
NUCLEAR-RELATED AGREEMENTS  
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¶9. (U) The following list of U.S.-Russian nuclear-related agreements involving inspection or monitoring without full privileges and immunities was provided to Lobach by U.S. delegation lawyer Mr. Dean.

Begin list:

-- HEU Purchase Agreement (1993);

-- Plutonium Production Reactor Agreement (1997);

-- Agreement on Science and Technology Cooperation for Plutonium Disposition (1998); and

-- Mayak Fissile Material Storage Facility (negotiations ongoing).

End list.

¶10. (U) Gottemoeller sends.  
GRIFFITHS